IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO 4366 OF 1992
WITH
WRIT PETITION NO 4476 OF 1992

WRIT PETITION NO. 4366 OF 1992.

1. Mohamad Suleman Jumai,
since deceased by his heirs and legal representatives;

1A) Saidunnisha Suleman Jumai
1B) Jamatunnisa Valid Matin.
1C) Ahidulnisha Kayoom
1D) Jamaluddin Suleman Jumai
1E) Nasin Suleman Jumai.

1A,1D to 1-E, residing at
1940, Dr. Saldhana Street,
Camp, Pune-1.

1B, residing at Kotwali Mohalla
Post Mahali, zilla Jannpur (U.P.)
1C, residing at Gaon-Bail Hati,
Post Badosa,Dist.Sultanpur (U.P.)

2) Mohammad Iliyas Allabux,
Occupation-business,
residing at 1940,
Dr. Saldhana Street, Camp- ..Petitioners.
Pune-411 001.

Vs.

1) Gatimabai Shaikh Amiruddin
Since deceased by her heirs.
1A) Shaikh Amiruddin Shaikh
Nizamuddin.
1B) Shaikh Aziz Shaikh Amiruddin.
Both residing at 807, Dastur
Maher Road, Camp Pune 411001.

2. Mohamamad Shaffi Usman
Occupation-Business, R/o 1941, ..Respondents.
Dr. Saldhana Street, Pune-1.

Mr. R.K. Maniyar i/b Mr. M.L. Patil for the petitioners.
Mr. G.M. Khambete for respondent No.2.

WRIT PETITION NO.4476 OF 1992.

Mohammed Shaffi Usman,
Occupation-Business.
residing at 1941 Saldhana
Street, Pune-411001. ..Petitioner.
Vs.
1.Fatmabai Shaikh Aminuddin,
since deceased by her heirs and
legal representatives.

1a) Mr. Shaikh Amiruddin Nizamuddin
1b) Mr.Shaikh Azimuddin Amiruddin
1c) Mr. Shaikh Nazeeruddin Amiruddin
1d) Mr. Shaikh Basheeruddin Amiruddin
1e) Mr. Shaikh Salimuddin Amiruddin
1f) Miss. Shaikh Mahera Amiruddin
Nos. 1 a to 1f all residing at
807, Dastur Meher Road,Camp, Pune-1.

1g) Mrs. Shaikh Tahera Jamuluddin,
r/o 92,,seems Manzil, Shivajinagar,
Juna Topkhana, Pune 411 005.

1h) Mrs. Sayyed Saria Abrar,
Occupation-Household,
r/o. L/105, Nasheman Colony,
Kausa, Mumbra,Dist. Thane.

Mr. G.M. Khambete for the petitioners.
None for the respondents.

CORAM : ANOOP V.MOHTA J.
DATE : 13TH JULY, 2005.

ORAL JUDGMENT.

. The respondent-landlady has expired, her legal heirs-original- plaintiffs being the owners, preferred Regular Civil suit No.4 of 1984 in the Court of Small

Causes, Pune for possession of the premises having its area 16′ X 10′ situated on the ground floor of the building No. 1940 on Saldhana Street, Pune, against the petitioners-tenants in writ petition No. 4366/92 and (defendant NO.2 and 3), and petitioner-tenant (original defendant No.1) in Writ petition NO. 4476/92. The trial Court, after considering the pleading, as well as, evidence led by the parties, held that the landlords proved their bonafide and reasonable need and also proved greater hardship. The decree of possession was granted.

2. The appeal preferred by the original defendants 2 and 3, the petitioners in writ petition No. 4366/92 got confirmed the judgment and decree for possession on the same ground and foundation. The original defendant No.1-landlord was respondent in the said civil appeal No.585/1988.

3. Heard the learned Counsel appearing for the petitioners. None appeared for the respondents. After going through the record, as well as, reasoning given by the Courts below, I am also of the view that the landlords have proved their case of bonafide need and

required suit premises for their use and occupation. There is an ample material on record to justify the landlords bonafide need. The landlords want the suit premises for business of herself and admittedly, there is no other premises available for non-residential purposes. The evidence led by the parties also justify the same averments, as well as, the need. In absence of any contrary material or evidence on the record, the landlords proved their case for reasonable and bonafide requirement of the premises, as there is no reason to discard the same, specially when both the Courts below arrived at the conclusion in favour of the landlords.

4. The appellate Court also rightly recorded that the original plaintiffs-landlords-respondents now retired and another son is separated and therefore, 4th youngest son wants to start the business in the suit premises and in absence of rebutted evidence, there is no case to interfere in writ jurisdiction.

5. The learned Counsel appearing for the petitioner has not placed any material on the record that the defendant No.1 is doing business in another premises.

6. For the above reasons, I see there is no case made out by both the petitioners to interfere with the concurrent findings arrived at by the Courts below.

7. In view of this, both the petitions are dismissed. Rule discharged. Interim relief stand vacated. No order as to cost.

[ANOOP V. MOHTA, J.]